

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEISHAWN CRANFORD

Plaintiff(s).

V.

STATE OF NEVADA, et al.,

Defendant(s).

Case No.: 2:17-cv-02643-APG-NJK

ORDER

(Docket Nos. 28, 30)

Pending before the Court is Defendants' motion for Rule 37 discovery sanctions. Docket 3.¹ Defendants' motion, however, is in reality a motion to compel responses from Plaintiff or discovery requests. *See* Docket No. 28 at 3, 6–7, 8. Discovery motions will not be considered “unless the movant (1) has made a good faith effort to meet and confer . . . before filing a motion, and (2) includes a declaration setting forth the details and results of the meet-and-conference about each disputed discovery request.” Local Rule 26-7(c).

Judges in this District have held that the rules require that the movant must “personally engage in two-way communication with the nonresponding party to meaningfully discuss each contested discovery dispute in a genuine effort to avoid judicial intervention.” *ShuffleMaster, Inc. v. Progressive Games, Inc.*, 170 F.R.D. 166, 171 (D. Nev. 1996). The consultation obligation “promote[s] a frank exchange between counsel to resolve issues by agreement or to at least narrow and focus matters in controversy before judicial resolution is sought.” *Nevada Power v. Monsanto*, 151 F.R.D. 118, 120 (D. Nev. 1993). To meet this obligation, parties must “treat the informal negotiation process as a substitute for, and not simply a formalistic prerequisite to, judicial

¹ Also pending before the Court is Defendants' motion to stay the dispositive motion deadline pending a ruling on the motion for Rule 37 discovery sanctions. Docket No. 30 at 4.

1 resolution of discovery disputes.” *Id.* This is done when the parties “present to each other the
2 merits of their respective positions with the same candor, specificity, and support during the
3 informal negotiations as during the briefing of discovery motions.” *Id.* To ensure that parties
4 comply with these requirements, movants must file certifications that “accurately and specifically
5 convey to the court who, where, how, and when the respective parties attempted to personally
6 resolve the discovery dispute.” *ShuffleMaster*, 170 F.R.D. at 170.² Courts may look beyond the
7 certification made to determine whether a sufficient meet-and-confer took place. *See, e.g.,*
8 *Cardoza v. Bloomin' Brands, Inc.*, 141 F. Supp. 3d 1137, 1145 (D. Nev. 2015).

9 Defendants’ motion states “that they made a good-faith effort to meet and confer with
10 Plaintiff before filing this Motion,” citing Exhibit 5. Docket No. 28 at 8. The last time Defendants
11 spoke with Plaintiff, however, was on November 21, 2019—97 days before they filed their instant
12 motion. Docket No. 28-5 at 3. Thus, a new meet-and-confer must occur before Defendants’ instant
13 motion is properly before the Court. *See McNamara v. Hallinan*, 2019 WL 918984, at *2 n.3 (D.
14 Nev. Feb. 25, 2019).

15 Accordingly, the Court **DENIES** Defendants’ motion for Rule 37 discovery sanctions.
16 Docket No. 28. Further, the Court **DENIES** as moot Defendants’ motion to stay dispositive
17 motion deadline pending a ruling on the motion for Rule 37 discovery sanctions. Docket No. 30.

18 IT IS SO ORDERED.

19 Dated: March 23, 2020

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21 Nancy J. Koppe
United States Magistrate Judge

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28 ² These requirements are now largely codified in the Court’s local rules. *See Local Rule*
Local Rule IA 1-3(f).